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SERVICE DATE - DECEMBER 17, 1998

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC-F-20938]

Coach USA, Inc. and Coach Canada, Inc.--Control and Continuance in Control--Autocar

Connaissanceur, Inc., Erie Coach Lines Company, and Trentway-Wagar, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving Finance Transaction.

SUMMARY: Coach USA, Inc. (Coach), a noncarrier that controls numerous motor passenger carriers, and its wholly owned noncarrier subsidiary, Coach Canada, Inc. (Coach Canada) (collectively, applicants), filed an application under 49 U.S.C. 14303 for control of Autocar Connaissanceur, Inc. (Autocar) and Erie Coach Lines Company (Erie), and for continuance in control of Trentway-Wagar, Inc. (Trentway), all motor carriers of passengers or, in the case of Erie, an entity that intends to become a motor carrier of passengers. Persons wishing to oppose the application must follow the rules under 49 CFR 1182.5 and 1182.8.¹ The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

¹ Revised procedures governing finance applications filed under 49 U.S.C. 14303 were adopted in Revisions to Regulations Governing Finance Applications Involving Motor Passenger Carriers, STB Ex Parte No. 559 (STB served Sept. 1, 1998).

DATES: Comments must be filed by February 1, 1999. Applicants may file a reply by February 22, 1999. If no comments are filed by February 1, 1999, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC-F-20938 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, send one copy of comments to applicants' representatives: Betty Jo Christian and David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565-1600.

[TDD for the hearing impaired: (202) 565-1695.]

SUPPLEMENTARY INFORMATION: Coach currently controls several motor passenger carriers. Coach Canada is a wholly owned Coach subsidiary established for the purpose of obtaining control of those motor passenger carriers that Coach currently controls that are based in Canada, as well as Canada-based motor passenger carriers that Coach and Coach Canada may in the future seek to control. In their application, Coach and Coach Canada state that Coach assumed control of Autocar² by a stock transaction that was consummated on December 19, 1996. Applicants indicate that Coach did not until recently determine that Autocar holds not only operating authority from Canadian agencies, but also authority

² Autocar is a Quebec corporation. It holds federally issued operating authority in Docket No. MC-166643, allowing it to conduct charter and special operations between certain U.S./Canada border crossings and points in the United States. Autocar operates a fleet of approximately 180 buses and employs approximately 250 full and part time persons. Autocar's annual revenues for the twelve month period ending June 1998 were approximately \$12.1 million.

issued by the Interstate Commerce Commission. Having discovered this unresolved control issue, Coach and Coach Canada now seek Board authority to control this carrier.

Coach and Coach Canada also seek Board authority to control Erie, which they will acquire through a stock transaction. Erie, a noncarrier, intends to obtain through a transfer of authority to be requested from the Federal Highway Administration the operating authority currently held by Erie Coach (1985), Inc. (Erie 1985).³ The stock of both Erie and Erie Coach (1985) is currently being held in voting trusts pending the transfer of authority and any action by the Board approving this application.

Coach currently controls Trentway.⁴ The Board exempted that control in Coach USA, Inc. and Leisure Time Tours--Control and Merger Exemption--Van Nortwick Bros., et al., Finance Docket No. 33428 (STB served Nov. 13, 1997). By this application, Coach seeks Board approval for Coach Canada to obtain direct control of Trentway by acquiring all of the voting stock of Trentway's ultimate parent, 337429 Canada, Inc., with Coach retaining indirect control of Trentway through its control of Coach Canada.

³ Erie, a Nova Scotia corporation, plans to acquire from Erie (1985) federally issued operating authority in Docket No. MC-127027. That authority authorizes transportation of passengers between U.S./Canada border crossing points and points in the United States. Erie will operate a fleet of 23 motorcoaches and employ approximately 35 persons. Erie 1985s' gross revenues for the twelve month period ending June 1998 were approximately \$1.7 million.

⁴ Trentway is an Ontario corporation. It holds federally issued operating authority in Docket No. MC-126430. That authority allows it to operate regular route and charter and special services between points in Canada and points in the United States. Trentway operates a fleet of approximately 348 buses and employs approximately 600 full and part time persons. Its annual revenues for the twelve month period ending June 1998 were approximately \$28.4 million.

Applicants state that granting the application will not result in any changes to carrier operations that are now being conducted and will not reduce competitive options available to the traveling public. They assert that each carrier is relatively small and faces substantial competition from other bus companies and modes of transportation.

Applicants also submit that granting the application will produce, or continue to produce, substantial benefits, including savings in interest costs from the restructuring of debt and reduced operating costs from Coach's enhanced volume purchasing power. Specifically, applicants claim that the carriers to be acquired will benefit from the lower insurance premiums negotiated by Coach or Coach Canada and from volume discounts for equipment and fuel. Applicants indicate that Coach will provide each carrier with centralized legal and accounting functions and coordinated purchasing services. In addition, applicants state that vehicle sharing arrangements will be facilitated through Coach or Coach Canada to ensure maximum use and efficient operation of equipment. Applicants aver that, with Coach's and Coach Canada's assistance, coordinated driver training services will be provided, enabling each carrier to allocate driver resources in the most efficient manner possible. Applicants add that the proposed transaction will benefit the employees of each carrier and that collectively bargained agreements will be recognized.

Applicants state that Coach Canada, like other management subsidiaries that Coach has established to assume control of, and manage the operations of, motor passenger carriers as to which control authority has previously been granted to Coach, will focus its efforts on those carriers that are based in Canada. Applicants also state that Coach Canada will be responsible for developing strategic business and growth plans for the Canadian based

entities that it seeks to control and for assessing opportunities for further Canadian acquisitions of passenger transportation entities. Applicants indicate that, over the long term, Coach and Coach Canada will provide centralized marketing and reservation services for the bus firms that they control, thereby further enhancing the benefits resulting from these control transactions.

Applicants certify that: (1) none of the carriers holds an unsatisfactory safety rating from the U.S. Department of Transportation;⁵ (2) each has sufficient liability insurance; (3) none is domiciled in Mexico or owned or controlled by persons of that country; and (4) approval of the transaction will not significantly affect either the quality of the human environment or the conservation of energy resources. Additional information may be obtained from applicants' representatives.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) the effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees. The prior consummation of the transaction involving Autocar does not bar approval of the application under section 14303 if the evidence establishes that the transaction would be consistent with the public interest in other respects, and for the future.⁶ Approval is granted in such circumstances when the

⁵ Trentway and Autocar each hold satisfactory ratings. Erie 1985 has a conditional rating, while Erie, which is not presently a carrier, has no rating.

⁶ Applicants seek nunc pro tunc approval of their control of Autocar, which they already control. While we are granting our tentative approval, the need for retroactive effect has not been demonstrated. Applicants recognize that they should have sought our approval

record contains strong affirmative evidence of public benefits to be derived from the resulting control, warranting the view that the public should not be penalized by being deprived of those benefits. Moreover, in this case, the record shows an absence of intent to flout the law or of a deliberate or planned violation. See Kenosha Auto Transport Corp.--Control, 85 M.C.C. 731, 736 (1960).

On the basis of the application, we find that the proposed acquisition of control and continuance in control is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application.⁷ If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

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This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

sooner but, under the circumstances, the Board does not intend to pursue enforcement actions against applicants for the previously unauthorized common control.

⁷ Under revised 49 CFR 1182.6(c), a procedural schedule will not be issued if we are able to dispose of opposition to the application on the basis of comments and the reply.

It is ordered:

1. The proposed acquisition of control and continuance in control is approved and authorized, subject to the filing of opposing comments.
2. If timely opposing comments are filed, the findings made in this decision will be deemed as having been vacated.
3. This decision will be effective on February 1, 1999, unless timely opposing comments are filed.
4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Office of Motor Carriers-HIA 30, 400 Virginia Avenue, S.W., Suite 600, Washington, DC 20024; and (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania, N.W., Washington, DC 20530.

Decided: December 9, 1998

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams

Secretary